

Minutes of the Waukesha County Shoreland Zoning Advisory Committee

Wednesday, January 20, 2016

Committee Members Present

Tim Barbeau	Town of Delafield Planner and Engineer
Thomas Day	Lake Management District Representative, Waukesha Co. Board of Adjustment
Marilyn Haroldson	Town of Merton Planner
Jeff Herrmann	Town of Genesee & Oconomowoc Planner
Kyle Kohlmann	Landscape Architect (Seasonal Services)- Mitigation only
Kathryn McNelly-Bell	Env. Consultant (Kapur & Assoc.), T/Mukwonago Plan Comm., Spring Brook Dist.
Bob Peregrine	Town of Oconomowoc Plan Comm., Waukesha Co. Park & Planning Comm.
Don Reinbold	North Lake Management District
Sandy Scherer	Town of Ottawa Planner, Waukesha County PLU
Paul Schultz	Architect (Sunarc Studios)
Jim Siepmann	Developer (Siepmann Realty/MBA), Waukesha Co. Park and Planning Comm.
Tony Zanon	Engineer (Jahnke & Jahnke)
Dave Zimmerman	Waukesha County Board, County Rep. of 4 Lake Management Districts
Dale Buser	SEWRPC (on behalf of Tom Slawski)

Committee Members Unable to Attend

Bill Groskopf	Builder (Groskopf Construction/MBA)
Tim Schwecke	Town of Mukwonago & Eagle Planner
Tom Slawski	SEWRPC/Biologist

Staff and Others Present

Jason Fruth	Waukesha County PLU (SZAC Chair)
Amy Barrows	Waukesha County PLU (Lead Staff)
Kim Haines	Waukesha County Corporation Counsel
Leif Hauge	Waukesha County PLU, Land Conservation
Jason Wilke	Waukesha County PLU, Landscape Architect
Rebekah Baum	Waukesha County PLU, Sr. Land Use Specialist
Kayla Reithmeyer	Waukesha County PLU, Land Use Specialist

Welcome/Introductions

Mr. Fruth welcomed the committee and thanked them for their time and service in assisting Staff with preparing amendments to the County Shoreland & Floodland Protection Ordinance (SFPO). The Committee members then introduced themselves. Mr. Fruth noted that the shoreland update project is prompted by the need to implement new State shoreland rules and laws by October of 2016. He emphasized that this project is also an opportunity to improve and modernize the shoreland ordinance.

Project overview presentation

Ms. Barrows presented an overview of the State's Shoreland protection rule (NR115) and shoreland zoning law (59.692). She noted that impervious surface requirements, mitigation and new rules for non-conforming structures are some of the most notable changes in the State's shoreland protection

scheme. She also described other aspects of the SFPO that the committee will be asked to analyze, such as floor area ratio and boathouse standards. Committee members asked the following questions:

- Will pending shoreland zoning legislation be considered during the course of the project? Mr. Fruth responded, yes, and he noted that Staff would explain the potential implications of proposed law changes during discussion of particular topics.
- Will the use of treated impervious surface options negate the need to mitigate? Staff responded that this may be the case and that this issue would be discussed more during the subsequent impervious surface agenda items.
- Will impervious surface limits apply to public or private boat launches? Planning Staff indicated that the State is generally exempt from most zoning rules but that private facilities would have to comply, although such existing impervious surface quantities would be grandfathered.
- Do shoreland regulations apply to cities and villages? Planning Staff explained that cities and villages are generally not subject to the same shoreland regulations but noted that many cities and villages within the county have chosen to adopt similar rules. Mr. Siepmann confirmed that the Village of Summit continues to operate under an ordinance that adheres to NR115 standards.

NR 115 Impervious Surface (IS) rule overview

Mr. Fruth explained the NR 115 Summary Sheet. He explained that IS limits must be applied within 300' of the ordinary high water mark of a navigable water body. He noted that NR 115 language has some ambiguity relative to methodology of calculation of IS coverage for lots that extend more than 300' from the OHWM and that Staff is actively working with Corporation Counsel and DNR to analyze this issue. He also briefly explained the tiered system (General Standards & Highly Developed Shorelines) that has been set forth in NR 115.

Ms. Haroldson asked for clarification regarding properties that extend more than 300' from the OHWM but have part of their improvements located more than 300' from shore. Planning Staff noted that the "application" standards of NR 115 suggest that only surfaces within 300' are regulated.

Impervious Surface Definition

Ms. Barrows explained the NR115 definition of impervious surface and described possible County refinements to the definition relative to the treatment of streets/roads and acknowledgement of pervious surfaces.

There was discussion amongst the committee regarding the following:

- Supervisor Zimmerman asked how shared private drives or roads would be handled. Ms. Barrows indicated that a proposed law change may provide more clarity on the County's ability to exempt public/private roads. She noted that staff would follow the proposed law change and report back to the committee.
- Mr. Herrmann expressed concern regarding the ambiguity of the "majority of precipitation" language in NR 115 definition.

Treated Impervious Surface (taken out of order)

Mr. Hauge, Senior Civil Engineer with the County Land Resources Division, explained the “First ½ Inch Stormwater Standard” document. He noted that Land Resources Staff has previously relied upon such a treatment standard for run-off for smaller development projects. He noted that research has shown that the first ½ inch of runoff from impervious surface generally carries the majority of the associated pollutants. He explained that Land Resources Staff felt that individuals proposing to treat impervious surfaces under the proposed “Treated Impervious Surface” scheme would generally not need complex engineering to successfully treat runoff and that achieving compliance with a simplified standard might work well.

Committee members expressed general support for ½ inch treatment standard. Mr. Reinbold questioned whether underground water storage could be employed. Mr. Hauge answered affirmatively and indicated that engineered systems could be considered. Mr. Zanon noted that he felt that the actual size of rain gardens may need to be slightly larger than Land Resources’ projections.

Mr. Siepmann noted the wide variety of rain garden options and asked whether planting density or emphasis on deep rooted vegetation would be treated differently from the standpoint of “treatment credit”.

In response to Mr. Siepmann’s question, there was committee discussion of the possibility of analyzing rain gardens or other measures in the context of the soil conditions present at the site of the proposed treatment facility. Mr. Reinbold stated that he felt that there was a need to generalize on the standards.

Mr. Schultz asked whether decks or crushed gravel driveways would be considered impervious. Mr. Hauge indicated that Land Resources does not consider gravel driveways to be pervious. Mr. Fruth explained that he felt that decks should be treated as impervious because of concentrated flows that run off of such surfaces unless the underlying area was prepared in some way to receive and infiltrate water to a certain standard.

Supervisor Zimmerman asked for clarification regarding the differences between TIS and mitigation. Staff explained that use of TIS keeps certain proposed surfaces from counting towards impervious surface limits while mitigation measures are required by NR 115 for multiple types of development activities and may include some of the same techniques or facilities as TIS.

Mr. Fruth indicated that Staff would further discuss the questions raised regarding rain gardens, decks and gravel surfaces with Land Resources Staff and report back with more information at the next meeting. He also noted that Staff would further consider options as to how best to describe or list the many different types of impervious surfaces and would re-visit this issue with the committee at the next meeting.

Impervious Surface Regulation Options

Ms. Barrows explained the Impervious Surface Coverage options document. She provided a description of each option:

Option 1 General Standard (15-30%)

Ms. Barrows noted that Staff had examined surveys and plans for approximately 40 properties several years ago after the new rule was implemented and determined that none of the sampled properties contained less than 15%, while approximately one-half of the properties contained more than 30% impervious surface. She explained that Staff expressed concern to DNR about the viability of the rule thresholds in an urban county like Waukesha County. She also noted that the environmental benefits of Option 1 were likely the greatest of the three options.

Option 2 Highly Developed Shorelines (HDS) (30-40%)

Ms. Barrows explained that NR 115 was modified recently to allow counties to employ less restrictive impervious surface limits in more intensively developed areas. She emphasized that employing HDS is an option for counties and explained that the option would be available in most parts of the County's shoreland jurisdiction because most areas are designated as urbanized areas or urban clusters by the U.S. Census Bureau. She explained that NR 115 allows still other areas to be designated as an HDS if at least 50% of the properties within a minimum 500' stretch of shoreline contain more than 30% impervious surface or are served by sewer. She showed a couple of sample shorelines that could potentially qualify.

Option 3 Sliding Scale for Highly Developed Shorelines (30-40% small parcels, 25-35% large parcels)

Ms. Barrows explained that Option 3 is very similar to Option 2 and differs only in that parcels of greater than 20,000 square feet would be limited to 25% IS without mitigation and 35% with mitigation. She explained that this option was presented because Staff felt that in looking at the hypothetical examples and sample property imperviousness, this level provided reasonable use while offering slightly more protection to the environment than Option 2. She also explained that a number of peer states and other counties have employed either 20% or 25% impervious limits previously.

Ms. Scherer and Mr. Fruth clarified that Staff is actively seeking clarification from DNR Staff as to whether they believe this option complies with the HDS standards of NR 115 in context of recent law changes. Corporation Counsel believes this option is consistent with law.

After the overview of options, Mr. Siepman noted that the meeting was running long. Mr. Fruth suggested that the group defer additional discussion and decision making regarding the three impervious options until the next meeting and asked whether the group wished to make a decision regarding the impervious surface definition before convening. The committee expressed a preference to defer to the next meeting to allow for consideration of additional input from Staff regarding questions that were raised earlier during the meeting.

Next meeting topics:

- Impervious Surface (continued)
- Building bulk
- Nonconforming structures

Next meeting date:

February 19, 2016 at 8:30 a.m. at the County Administration Center.

N:\PRKANDLU\Planning and Zoning\SF Protection Ordinance blue cover\NR115\Advisory Committee\Minutes\SZAC meeting minutes 01 20 16.doc